

Introduced by Committee on Revenue and Taxation (Senators Wolk (Chair), Alquist, Ashburn, Florez, Runner, Walters, and Wiggins)

March 10, 2009

An act to amend Sections 2512, 2781, 2782, 3731, 3791.4, and 3793.1 of, and to amend and renumber Section 4839.2 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 823, as introduced, Committee on Revenue and Taxation. Property taxation.

(1) Existing property tax law provides that a remittance to a taxing agency is deemed to be received, if made by an electronic payment, as specified, on the date the transaction was completed by the taxpayer.

This bill would require this remittance to be made, in order to be deemed received on the date the transaction was completed by the taxpayer, on the taxing agency's authorized Internet Web site or via the taxing agency's authorized telephone number.

(2) Existing law requires a county to return a replicated tax payment to the tendering party within 60 days following the receipt of the replicated payment. If that replicated payment is not returned to the tendering party within 60 days following the receipt of the replicated payment, the county is required to pay interest at a specified rate, for the period beginning 60 days after the county receives the replicated payment to the date the replicated payment is returned to the tendering party.

This bill would instead require a county to return a replicated payment to the tendering party within 60 days of the date the payment becomes final. This bill would also require the interest to be computed for the

period beginning 60 days after the replicated payment becomes final to the date the replicated payment is returned to the tendering party.

(3) Existing law authorizes the board of supervisors, when it is determined that a tax deed to a purchaser of property sold by the tax collector should not have been sold, to rescind the sale with the written consent of the county legal adviser and the purchaser of the property.

This bill would authorize the successor in interest of the purchaser of the property to provide written consent to rescind the sale of the property. This bill would authorize the board of supervisors, if the written consent of the purchaser of the property or a successor in interest is not obtained, to rescind the sale of the property, if a hearing is scheduled before the board of supervisors and a notice containing specified information is sent to the purchaser of the property or a successor in interest. This bill would provide that the purchaser or a successor in interest is entitled to a refund of the amount paid as the purchase price plus interest at the county pool apportioned rate, as provided, after rescission of the tax deed is recorded.

(4) Existing property tax law authorizes a nonprofit organization, with the approval or permission of either the board of supervisors or that board's designee, to purchase certain property that has been tax defaulted, as specified, and to purchase the property by way of installment payments. Existing law authorizes the tax collector, with the approval of either the board of supervisors or that board's designee, to offer certain property for sale at a minimum price that the tax collector deems appropriate.

This bill would eliminate the board designee's authorization to approve the purchase of tax defaulted property by a nonprofit organization, or to permit the purchase of the property by way of installment payments. This bill would also eliminate the board designee's authorization to approve the tax collector's sale of certain property at a minimum price that the tax collector deems appropriate.

(5) Existing law requires the board of supervisors, upon receipt of a specified notice regarding a proposed sale of tax-defaulted property, to either approve or disapprove the proposed sale by resolution, and to transmit a certified copy of the resolution to the tax collector, as specified.

This bill would make a technical, nonsubstantive change to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2512 of the Revenue and Taxation Code
2 is amended to read:

3 2512. (a) If a remittance to cover a payment required by law
4 to be made to a taxing agency prior to a specified date and hour is
5 (a) deposited in the United States mail in a sealed envelope,
6 properly addressed with the required postage prepaid, or (b)
7 deposited for shipment with an independent delivery service that
8 is an Internal Revenue Service designated delivery service or has
9 been approved by the tax collector, in a sealed envelope or package,
10 properly addressed with the required fee prepaid, delivery of which
11 shall not be later than 5 p.m. on the next business day after the
12 effective delinquent date, the remittance shall be deemed received
13 on the date shown by the post office cancellation mark stamped
14 upon the envelope containing the remittance, or the independent
15 delivery service shipment date shown on the packing slip or air
16 bill attached to the outside of the envelope or package containing
17 the remittance, or on the date it was mailed if proof satisfactory
18 to the tax collector establishes that the mailing occurred on an
19 earlier date. The taxing agency is not required to accept a payment
20 actually received in the mail if it is received more than 30 days
21 after the date and time set by law for the payment.

22 (b) If a remittance to cover a payment, required by law to be
23 made to a taxing agency prior to a specified date and hour, is made
24 by an electronic payment option, such as wire transfer, telephoned
25 credit card, or electronic Internet means, the remittance shall be
26 deemed received on the date the transaction was completed by the
27 taxpayer, *if the remittance was made on the taxing agency's*
28 *authorized Internet Web site or via the taxing agency's authorized*
29 *telephone number*. Proof of completion of the transaction in the
30 form of a confirmation number or other convincing evidence shall
31 be presented by the taxpayer to the satisfaction of the tax collector.
32 This subdivision does not apply to payments by electronic fund
33 transfer as provided in Sections 2503.1 and 2503.2.

34 (c) This section does not, for purposes of applying subdivision
35 (a) of Section 3707, apply to a remittance sent by mail, by
36 independent delivery service, or by electronic payment option for
37 the redemption of tax-defaulted property.

SEC. 2. Section 2781 of the Revenue and Taxation Code is amended to read:

2781. If a taxpayer or agent for the taxpayer submits a payment indicated for application to a specific tax or tax installment and that tax or tax installment already has been paid, the county shall return the replicated payment to the tendering party within 60 days *of the date the payment becomes final. For purposes of this section, "final" means the original payment that is not subject to chargeback, dishonor, or reversal.* However, when a replicated payment is made of any tax or tax installment paid by a certificate of eligibility pursuant to Section 2514, the amount of the replicated payment shall be paid to the person shown on the certificate.

SEC. 3. Section 2782 of the Revenue and Taxation Code is amended to read:

2782. If a replicated tax payment is not returned to the tendering party within 60 days *of becoming final*, as provided in this chapter, the county shall, in addition to returning the replicated payment as soon as practicable, pay the tendering party interest, if that interest is ten dollars (\$10) or more, on the amount of replicated payment at the rate provided in Section 5151. The interest shall be computed for the period beginning 60 days after ~~the county receives~~ the replicated payment *becomes final* to the date the replicated payment is returned to the tendering party.

SEC. 4. Section 3731 of the Revenue and Taxation Code is amended to read:

3731. (a) When a tax deed to a purchaser of property sold by the tax collector pursuant to this part is recorded and it is determined that the property should not have been sold, the sale may be rescinded by the board of supervisors with the written consent of the county legal adviser and the purchaser of the property *or a successor in interest in the property, except a bona fide purchaser for value*, under any of the following circumstances:

(1) The property has not been transferred or conveyed by the purchaser at the tax sale to a bona fide purchaser for value.

(2) The property has not become subject to a bona fide encumbrance for value subsequent to the recordation of the tax deed.

~~(b) When the sale of tax-defaulted property is rescinded pursuant to subdivision (a), the purchaser is entitled to a refund of the amount paid as the purchase price after the purchaser executes a~~

1 ~~recission of the tax deed. The recission shall also be executed by the~~
2 ~~county tax collector. The signatures of the purchaser and the county~~
3 ~~tax collector~~

4 *(b) If the written consent of the purchaser of the property or a*
5 *successor in interest is not obtained pursuant to subdivision (a),*
6 *the sale may be rescinded by the board of supervisors pursuant to*
7 *the circumstances specified in subdivision (a), if both of the*
8 *following conditions are met:*

9 *(1) Notwithstanding Section 3731.1, a hearing is scheduled*
10 *before the board of supervisors.*

11 *(2) (A) A notification is provided to the purchaser of the*
12 *property or a successor in interest that contains all of the following*
13 *information:*

14 *(i) The date, time, and place of the hearing.*

15 *(ii) A description of the property that was sold.*

16 *(iii) The reason for rescinding the sale of the property.*

17 *(iv) A statement that a refund will be issued to the purchaser of*
18 *the property or the successor in interest, if applicable, for the*
19 *purchase amount of the property plus interest at the county pool*
20 *apportioned rate as specified in Section 5151 from the date of the*
21 *purchase of the property.*

22 *(B) The tax collector shall send the notice, not less than 45 days*
23 *prior to the date of the hearing, to the purchaser of the property*
24 *or a successor in interest by certified mail with return receipt*
25 *requested. The notice shall be sent to the last known mailing*
26 *address of the purchaser of the property or a successor in interest.*

27 *(c) When the sale of tax-defaulted property is rescinded pursuant*
28 *to this section, the purchaser or a successor in interest is entitled*
29 *to a refund of the amount paid as the purchase price plus interest*
30 *at the county pool apportioned rate as specified in Section 5151*
31 *from the date of the purchase of the property after rescission of*
32 *the tax deed is recorded.*

33 *(d) The rescission shall be executed by the county tax collector*
34 *and, if rescinded pursuant to subdivision (a), also by the purchaser*
35 *or a successor in interest. The signature of both the county tax*
36 *collector and the purchaser or a successor in interest shall be*
37 *acknowledged by the county clerk, without charge, and the county*
38 *tax collector shall then record the ~~recission~~ rescission with the*
39 *county recorder, without charge. When the ~~recission~~ rescission is*
40 *recorded, the tax deed becomes null and void as though never*

1 issued and all provisions of law relating to tax-defaulted property
2 shall apply to the property.

3 (e)

4 (e) The holder of a tax certificate who received all or any part
5 of the amount paid by the purchaser *or a successor in interest* shall
6 not be obligated to make any refund or repayment of any amount
7 to the purchaser, the delinquent taxpayer, the county, or any other
8 person. The tax collector may use amounts on deposit in the Tax
9 Certificate Redemption Fund to make the refund, but only to the
10 extent those amounts were paid to the holder of the applicable tax
11 certificate.

12 (f) *Subdivision (b) shall apply to sales that are completed on or*
13 *after January 1, 2010.*

14 SEC. 5. Section 3791.4 of the Revenue and Taxation Code is
15 amended to read:

16 3791.4. (a) When residential or vacant property has been tax
17 defaulted for five years or more, or three years or more after the
18 property has become ~~tax-defaulted~~ *tax defaulted* and is subject to
19 a nuisance abatement lien, that property may, with the approval
20 of ~~either~~ the board of supervisors of the county in which it is
21 located ~~or that board's designee~~, be purchased pursuant to this
22 chapter by a nonprofit organization, provided that:

23 (1) In the case of residential property, the nonprofit organization
24 shall rehabilitate and sell or rent to, or otherwise use the property
25 to serve, low-income persons.

26 (2) In the case of vacant property, the nonprofit organization
27 shall construct residential dwellings on the property and sell or
28 rent the property to low-income persons, otherwise use the property
29 to serve low-income persons, or dedicate the vacant property to
30 public use.

31 (b) The terms and conditions of any conveyance to a nonprofit
32 corporation pursuant to this section shall be specified in the deed
33 or other instrument of conveyance.

34 SEC. 6. Section 3793.1 of the Revenue and Taxation Code is
35 amended to read:

36 3793.1. (a) The sales price of any property sold under this
37 article shall include, at a minimum, the amounts of all of the
38 following:

39 (1) All defaulted taxes and assessments, and all associated
40 penalties and costs.

1 (2) Redemption penalties and fees incurred through the month
2 of the sale.

3 (3) All costs of the sale.

4 (b) If the property or property interests have been offered for
5 sale under the provisions of Chapter 7 (commencing with Section
6 3691) at least once and no acceptable bids therefor have been
7 received, the tax collector may, in his or her discretion and with
8 the approval of the board of supervisors ~~or that board's designee~~,
9 offer that property or those interests at a minimum price that the
10 tax collector deems appropriate.

11 (c) The board of supervisors, ~~or its designee~~, may permit a
12 nonprofit organization to purchase property or property interests
13 by way of installment payments.

14 SEC. 7. Section 4839.2 of the Revenue and Taxation Code is
15 amended and renumbered to read:

16 ~~4839.2.~~

17 3699. On receipt of the notice described in Section 3698, the
18 board of supervisors shall by resolution either approve or
19 disapprove the proposed sale and shall transmit a certified copy
20 of the resolution to the tax collector within five days after its action.
21 Failure to adopt or to transmit the resolution within the prescribed
22 times shall not affect the validity of a sale approved by a board of
23 supervisors.